

AMENDED IN ASSEMBLY MARCH 16, 2011
AMENDED IN ASSEMBLY FEBRUARY 23, 2011
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 56

Introduced by Assembly Member Hill

December 6, 2010

An act to add Sections 746 and 770.5 to the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 56, as amended, Hill. Public utilities: rate recovery and expenditure: intrastate pipeline safety.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable.

This bill would prohibit a public utility from recovering any fine or penalty in any rate approved by the commission. The bill would require a public utility to file quarterly reports with the commission and the Division of Ratepayer Advocates describing how the public utility is spending ratepayer funds approved for expenditure by the commission. The bill would require the commission to align ratemaking policies, practices, and incentives to better reflect safety concerns and ensure ongoing commitments to public safety. The bill would require a public utility to return ratepayer funds approved for expenditure for public safety by the commission to ratepayers, if those funds are not expended within a reasonable period of time after the commission grants approval of the public safety expenditure, as determined by the commission. The

bill would require the commission to consider the safety record of the public utility in determining what constitutes a reasonable rate of return for the public utility.

(2) The Public Utilities Act authorizes the commission to ascertain and fix just and reasonable standards, classifications, regulations, practices, measurements, or service to be furnished, imposed, observed, and followed by specified public utilities, including gas corporations, as defined.

Existing federal law requires the United States Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA) to adopt minimum safety standards for pipeline transportation and for pipeline facilities, including an interstate gas pipeline facility and intrastate gas pipeline facility, as defined. Existing law authorizes the Secretary of Transportation to prescribe or enforce safety standards and practices for an intrastate pipeline facility or intrastate pipeline transportation to the extent that the safety standards and practices are regulated by a state authority that submits to the secretary annually a certification for the facilities and transportation or alternatively authorizes the secretary to make an agreement with a state authority authorizing it to take necessary action to meet certain pipeline safety requirements. Existing law prohibits a state authority from adopting or continuing in force safety standards for interstate pipeline facilities or interstate pipeline transportation. Existing law authorizes a state authority that has submitted a current certification to adopt additional or more stringent safety standards for intrastate pipeline facilities and intrastate pipeline transportation only if those standards are compatible with the minimum standards prescribed by PHMSA.

This bill would designate the commission as the state authority responsible for development, submission, and administration of a state pipeline safety program certification for natural gas pipelines. The bill would require the commission to adopt and enforce compatible safety standards, as defined, for commission-regulated gas pipeline facilities, as defined, to accomplish specified results. The bill would require the commission to track proposed repairs for which a gas corporation requested compensation in any rate request that was granted by the commission in order to determine if the repairs are made and to require any gas corporation that fails to make repairs for which the commission granted recovery in rates to promptly make a public filing as to the justification for failing to make the approved repairs. The bill would prohibit a gas corporation from recovering in rates any uninsured

expense resulting from a fire, explosion, or other catastrophic event involving a commission-regulated gas pipeline facility that resulted from negligence by the utility.

(3) Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 746 is added to the Public Utilities Code,
2 to read:

3 746. (a) A public utility shall not recover any fine or penalty
4 in any rate approved by the commission.

5 (b) A public utility shall file quarterly reports with the
6 commission and the Division of Ratepayer Advocates describing
7 how the public utility is spending ratepayer funds approved for
8 expenditure by the commission.

9 (c) The commission shall work in conjunction with the Division
10 of Ratepayer Advocates to align ratemaking policies, practices,
11 and incentives to better reflect safety concerns and ensure ongoing
12 commitments to public safety.

13 (d) A public utility shall return ratepayer funds approved for
14 expenditure for public safety by the commission, to ratepayers if
15 those funds are not expended within a reasonable period of time
16 after the commission grants approval of the public safety
17 expenditure, as determined by the commission.

18 (e) In determining what constitutes a reasonable rate of return,
19 the commission shall consider the safety record of the public utility.

SEC. 2. Section 770.5 is added to the Public Utilities Code, to read:

770.5. (a) For purposes of this section the following terms have the following meanings:

(1) “Commission-regulated gas pipeline facility” means an intrastate gas pipeline facility, as defined in Section 60101 of Title 49 of the United States Code, that transports natural gas and is subject to the regulatory authority of the commission, including a pipeline that the commission, pursuant to subsection (c) of Section 717 of Title 15 of the United States Code, has certified to the Federal Energy Regulatory Commission as being subject to the regulatory jurisdiction of the commission over rates and service. “Commission-regulated gas pipeline facility” does not include those pipelines that are excluded from regulation by the Federal Energy Regulatory Commission pursuant to subsection (b) of Section 717 of Title 15 of the United States Code because they are facilities used for the distribution of natural gas.

(2) “Compatible safety standards” means additional or more stringent safety standards for commission-regulated gas pipeline facilities that are compatible with the minimum safety standards adopted by the Department of Transportation pursuant to Chapter 601 (commencing with Section 60101) of Subtitle VIII of Title 49 of the United States Code and which the commission is authorized to adopt pursuant to subsection (c) of Section 60104 of that chapter.

(b) The commission shall be the state authority responsible for the development, submission, and administration of a state pipeline safety program certification for natural gas pipelines pursuant to Chapter 601 (commencing with Section 60101) of Subtitle VIII of Title 49 of the United States Code.

(c) The commission shall adopt and enforce compatible safety standards for commission-regulated gas pipeline facilities to accomplish all of the following:

(1) Require the owner or operator to make an annual performance measure report to the commission concerning all commission-regulated gas pipeline facilities. The performance measure report shall include the total number of anomalies identified as a result of safety assessments, the total number of conditions repaired, and the actual anomalies *needing repair that are* identified by the pipeline owner or operator during the inspections and the conditions requiring repair. The annual

1 performance measure reports shall be made publicly available to
2 the extent that doing so does not create a public safety risk. The
3 commission shall consult with the federal Department of Homeland
4 Security in determining what information may be made available
5 without creating a public safety risk.

6 (2) Require the owner or operator to evaluate the integrity of
7 all commission-regulated gas pipeline facilities outside high
8 consequence areas and to include this evaluation as part of their
9 safety assessment reports.

10 (3) Require the owner or operator of commission-regulated gas
11 pipeline facilities to develop and to implement, by January 1, 2012,
12 a continuing public education program pursuant to Section 60116
13 of Title 49 of the United States Code. The owner or operator, to
14 the extent that doing so does not create a public safety risk, shall
15 provide detailed, customized information on pipeline locations
16 and emergency response plans, as well as enhanced annual
17 emergency response training.

18 (4) Require the owner or operator of commission-regulated gas
19 pipeline facilities to provide information regarding the pipeline
20 system to state and local emergency responders, including the
21 business name, address, and emergency contact information of
22 whom to contact if an event occurs, accurate maps of facility
23 locations, the owner or operator's emergency response plan, and
24 any other information the commission determines should be
25 supplied to state and local emergency responders.

26 (5) Require the owner or operator of commission-regulated gas
27 pipeline facilities to conduct outreach and public education relative
28 to excavation dangers and the availability of the one-call
29 notification program in order to reduce dangerous incidences
30 caused by third-party excavations.

31 (6) Require the owner or operator of commission-regulated gas
32 pipeline facilities to prioritize those facilities that, because of their
33 proximity to seismic active areas, should be subject to the highest
34 level of safety oversight. *The commission shall develop protocol*
35 *to ensure that pipelines that are located in seismic active areas*
36 *and in populated areas, including those pipelines located within*
37 *a Class 3 or Class 4 high consequence area, receive the highest*
38 *priority and are designed with the highest level of safety. In*
39 *adopting and enforcing compatible safety standards pursuant to*
40 *this paragraph, the commission shall consult with seismic experts*

1 *and shall publish maps of known and active seismic faults on which*
2 *owners and operators will rely to address risks.*

3 (7) Require the owner or operator of commission-regulated gas
4 pipeline facilities to comply with minimum standards established
5 by the commission, in consultation with the independent review
6 panel investigating the San Bruno natural gas pipeline explosion
7 of 2010, to install automatic or remote shutoff valves, unless
8 technically unfeasible, according to the following timelines:

9 (A) On all new commission-regulated gas pipeline facilities or
10 any facility being replaced beginning January 1, 2012.

11 (B) On all facilities within 10 miles of a high-risk seismic fault
12 by January 1, 2014.

13 (C) On all facilities within 10 miles of a Class 3 or Class 4 high
14 consequence area by January 1, 2017.

15 ~~(8) Require the owner or operator of commission-regulated gas~~
16 ~~pipeline facilities to operate those facilities at safe pressure if the~~
17 ~~facility cannot be inspected using the most effective inspection~~
18 ~~technology.~~

19 (8) *Require the owner or operator of commission-regulated gas*
20 *pipeline facilities to maintain a record of tests on all pipelines to*
21 *substantiate their current maximum allowable operating pressure.*
22 *If complete records are not available, the owner or operator shall*
23 *reduce the maximum operating pressure and report the condition*
24 *to the commission. Before restoring the pipeline pressure to its*
25 *maximum operating pressure the facility shall be inspected using*
26 *the most effective and appropriate inspection technology.*

27 (9) Require owners and operators of commission-regulated gas
28 pipeline facilities to complete, by January 1, 2022, a modernization
29 program to upgrade key facilities located in heavily populated and
30 other critical areas. The commission shall consult with owners and
31 operators and interested stakeholders in developing the program
32 requirements and schedule. The program shall contain criteria for
33 prioritizing critical gas pipeline facilities and ensure that all
34 upgraded facilities can accommodate state-of-the-art inspections,
35 including internal corrosion inspection methods.

36 (d) The commission shall adopt and enforce a one-call
37 notification program for the state consistent with the requirements
38 adopted by the Department of Transportation pursuant to Chapter
39 601 (commencing with Section 60101) of Subtitle VIII of Title 49
40 of the United States Code.

1 (e) The commission shall track proposed repairs for which a
2 gas corporation requested compensation in any rate request that
3 was granted by the commission in order to determine if the repairs
4 are made. The commission shall require any gas corporation that
5 fails to make repairs for which the commission granted recovery
6 in rates to promptly make a public filing as to the justification for
7 failing to make the approved repairs.

8 (f) A gas corporation shall not recover in rates any uninsured
9 expense resulting from a fire, explosion, or other catastrophic event
10 involving a commission-regulated gas pipeline facility that resulted
11 from negligence by the utility.

12 SEC. 3. No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution because
14 the only costs that may be incurred by a local agency or school
15 district will be incurred because this act creates a new crime or
16 infraction, eliminates a crime or infraction, or changes the penalty
17 for a crime or infraction, within the meaning of Section 17556 of
18 the Government Code, or changes the definition of a crime within
19 the meaning of Section 6 of Article XIII B of the California
20 Constitution.